



Appeal Decision

Site visit made on 5 August 2009

**by A J Davison BA(Hons) LLB(Hons) MSc
MBA Dip LD RIBA FRTPi**

**an Inspector appointed by the Secretary of State
for Communities and Local Government**

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

**Decision date:
19 August 2009**

Appeal Reference: APP/Z4718/A/09/2100513/NWF Land off Hart Street, Newsome, Huddersfield HD4 6LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by J S Bloor (Measham) Ltd against the decision of Kirklees Metropolitan Borough Council.
- The application Reference 2008/62/92072/W3, dated 4 June 2008, was refused by notice dated 25 September 2008.
- The development proposed is the erection of 28 dwellings with associated access roads, parking, garaging, sewers and creation of new public open space area.

Decision

1. I dismiss the appeal.

Main issues

2. There are three main issues in the appeal. The first is the effect of the proposed development on the character and appearance of the area. The second is its impact on biodiversity and protected species. The third is the impact on highway safety and the free flow of traffic.

Reasons

The character and appearance of the area.

3. The appeal site is a rectangular piece of land in a residential area some 1.2 km from Huddersfield town centre. It has a total area of 0.65ha, about 70% of which is occupied by two reservoirs originally associated with a nearby mill. The remainder consists of undeveloped land that was last used as allotments but is now overgrown. The Council's objection, in so far as this issue is concerned, relates solely to the previously undeveloped part of the site.
 4. Local residents are anxious that this part of the site should be put back into use as allotments. Saved Policy R9 of the 1999 Kirklees Unitary Development Plan (UDP) presumes against development on allotment land but does so only where there is evidence of unmet demand for allotments. Notwithstanding the survey carried out by the residents it would appear from the Council's research that there is no great demand for allotments in this area. Consequently the appeal proposals would not, in that respect, conflict with Policy R9.
 5. Policy R9 also says that all proposals to develop land last used as allotments should safeguard visual and residential amenity. The supporting text explains, in paragraph 14.25, that such sites often constitute one of the few remaining areas of undeveloped land and therefore have particular amenity value.
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6. In my view the openness of this previously undeveloped part of the site provides valuable visual relief in what is otherwise a fairly densely developed urban area. It is untidy and overgrown but I regard that as a management and maintenance issue.
7. The appeal proposals would include a small area of public open space and a landscaped strip along the western boundary of the site. This would contain the existing trees, which are included in a Tree Preservation Order (TPO) and which would be retained as part of the development. These measures would not, however, compensate for the harm to the character and appearance of the area resulting from the permanent loss of this open land.
8. Paragraph 40 Planning Policy Statement 3, Housing (PPS3), says that re-using previously developed land is a key objective and the Council's approach reflects this. The Council points out that about 90% of recent housing development in the Borough has been secured on previously developed land while still achieving completions in excess of the requirement in the Regional Spatial Strategy.
9. It would appear from the Council's Annual Monitoring Review that supply is continuing to exceed current targets and that there is an adequate five year supply of housing sites already allocated or with planning permission. The Appellants have sought to show that it might not be possible to deliver all of those developments within five years. On the basis of the evidence before me, however, I consider that there is a reasonable prospect of the required housing provision being delivered within five years and that the test in paragraph 54 of PPS3 is met.
10. The Council's 5 year housing supply figures are based on sites that either have planning permission or are allocated for housing in the UDP. I have taken account of the fact that they include some green field sites but that is of little relevance to the appeal site, which is not allocated for housing and has no planning permission.
11. I consider that the appeal proposal would result in the loss of a substantial area of previously undeveloped land to the detriment of the character and appearance of the area, that the proposed landscaping would not adequately compensate for this and that the Appellants have failed to demonstrate that the need for housing in the area is such as to outweigh those considerations.

Biodiversity

12. The Council is concerned about the possibility that bats might be roosting in the culvert and the trees on the Naomi Street boundary of the site. Surveys carried out for the Appellants found that bats were roosting in nearby houses and that low numbers of bats were using the site for foraging. However, there were no signs that bats were roosting anywhere on the site. The surveys concluded that, while the possibility of bats using the culvert as winter roosts could not be ruled out entirely, it was not an attractive or likely location for them. In any event, the culvert and trees would be retained and the development would include bat boxes and shrubs attractive to insects. I see no reason, therefore, to suppose that the development would harm the local bat population.

13. The Council is also concerned about the effect that removal of the reservoirs would have on the white clawed crayfish, which is known to be present in the Huddersfield area. The ecological survey found nothing to indicate that there were crayfish on the site. The Appellants point out that the reservoirs are connected, via various water courses, to Fenay Brook where there is a population of invasive signal crayfish. Because of this the appeal site would not provide a safe habitat for white clawed crayfish.
14. My conclusion on this issue is that the Appellants have carried out a thorough investigation of the likely impact of the development and there is nothing to indicate that that it would adversely affect biodiversity or protected species.

Highway Safety

15. Despite having dimensions below the minimum of 6m x 3m recommended in Manual for Streets, the garages would be capable of accommodating a small car and of making some contribution to parking on the site. The Appellants say that, in anyevent, they are primarily intended for domestic storage and have not been included in the overall parking provision for the scheme. Even if they are discounted altogether there would still be 40 outdoor spaces, as compared with the maximum of 55 allowed under the Council's guidelines. Moreover, the site is in a sustainable urban location served by a number of bus routes, is within walking and cycling distance of the of the town centre and has local shops and services nearby.
16. The Council also questions the ability of the access road to accommodate all the traffic associated with the development but there is no explanation of this contention and no evidence before me to support it.
17. I consider that the Council has failed to demonstrate that the development would have any adverse impact on highway safety or the free flow of traffic. My conclusion on this issue is, therefore, that the development would comply with saved UDP Policies D2, BE1 or BE2.

Conclusion

18. The evidence before me does not indicate that the development would have an adverse impact either on highway safety or on protected species. However, the loss of previously undeveloped open land resulting from the proposal would have an unacceptable impact on the character and appearance of the area. Consequently the development would not safeguard visual and residential amenity, as required by saved UDP Policy R9. For that reason my overall conclusion is that the appeal should be dismissed.

Anthony J Davison

Inspector